



Agenda Date: 8/23/2005  
Agenda Placement: 60

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Linda Holbrook for Robert Westmeyer - County Counsel  
County Counsel  
**REPORT BY:** Robert Westmeyer, County Counsel, 259-8245  
**SUBJECT:** Approval of Agreement with Kronick, Moskovitz, Tiedeman & Girard for legal services related to the Fair Payment For Public Benefit Act initiative election

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### **RECOMMENDATION**

County Counsel requests approval of and authorization for the Chair to sign an agreement with Mark A. Wasser of the law firm of Kronick, Moskovitz, Tiedemann & Girard for a maximum of \$25,000 for the term August 10, 2005 through December 30, 2005 for legal services related to preparing a legal analysis of the Fair Payment For Public Benefit Act for inclusion in the report ordered by the Board pursuant to California Elections Code Section 9111.

### **EXECUTIVE SUMMARY**

On August 9, 2005, the Board ordered a report prepared pursuant to Elections Code section 9111. Mark A. Wasser of Kronick, Moskovitz, Tidemann & Girard will prepare the legal analysis of the Fair Payment For Public Benefit Initiative for inclusion in the Elections Code section 9111 report.

A transcript of the Board discussion on August 9th has been prepared and all legal issues raised by the various Board members will be addressed. Mr. Wasser will also provide the Conservation, Development and Planning Department, and their consultants, with advice regarding the portion of the 9111 Report being prepared by that Department through the use of outside planning consultants.

The Agreement provides for a maximum payment. The actual payments pursuant to the Agreement will be based on actual work performed and is expected to be less than the Agreement maximum.

The legal analysis of the Read and Understand Initiative is being prepared internally to minimize the costs of outside legal counsel.

### **FISCAL IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
What is the revenue source?	County Counsel is a General Fund Department. For some years all outside legal services agreements have been processed through County Counsel so the CEO will have a clear idea of the cost of internal and outside legal services costs by reviewing the County Counsel's budget. Although at the present time there are funds available in the County Counsel's FY05/06 legal services budget to cover this cost, it must be noted here that preparing this report will absorb a significant portion of the County Counsel's FY2005/2006 budget for outside legal services. Unless there is little need for outside legal services for the remainder of the fiscal year, it is likely that a transfer from contingencies will be required at some point.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The Board has concluded it would like a legal analysis of the Fair Payment For Public Benefit Act. Because of the time pressures and other demands on the County Counsel's office, and because the report must be completed in 30 days or less, use of outside counsel is required. However, preparing the report is not required under the Elections Code and therefore whether or not to prepare such a report is up to the Board's discretion.
Is the general fund affected?	Yes
Future fiscal impact:	None. This is a one time expense.
Consequences if not approved:	The Report previously ordered by the Board would not be prepared in a timely manner.
Additional Information:	None

### **ENVIRONMENTAL IMPACT**

**ENVIRONMENTAL DETERMINATION:** It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

### **BACKGROUND AND DISCUSSION**

On August 9, 2005, the Board ordered a report prepared pursuant to Elections Code section 9111. Mark A. Wasser of Kronick, Moskovitz, Tidemann & Girard will prepare the legal analysis of the Fair Payment For Public Benefit Initiative and the analysis will be included in the Elections Code section 9111 report.

A transcript of the Board discussion on August 9th has been prepared and all legal issues raised by Board members will be addressed. The attorneys will also provide the Conservation, Development and Planning Department, and their consultants, with advice regarding the portion of the 9111 Report being prepared by that Department through the use of outside planning consultants.

The legal analysis of the Read and Understand Initiative is being prepared internally to minimize the outside counsel legal costs.

**SUPPORTING DOCUMENTS**

None

CEO Recommendation: Approve

Reviewed By: Lynn Perez